

The Honorable Benjamin H. Settle

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DEBORAH McALPINE, individually and as,
Administrator of the Estate of KENNETH
McALPINE, deceased,

Plaintiff,

vs.

STATE FARM FIRE AND CASUALTY
COMPANY, a foreign insurer,

Defendant.

HARBORSTONE CREDIT UNION, a
Washington State Credit Union,

Intervening Plaintiff.

NO. 3:10-cv-05630 BHS

**STIPULATED ORDER GRANTING
HARBORSTONE CREDIT UNION'S
MOTION FOR SUMMARY
JUDGMENT**

(Clerk's Action Required)

ORDER

THIS MATTER having come on regularly for hearing upon the motion of Intervening Plaintiff, Harborstone Credit Union ("**Harborstone**"), and the Court having determined that all parties entitled to notice have received proper notice of the motion, and having considered Harborstone's Motion for Summary Judgment ("**Motion**") and the Declarations of Roger Johansen and Joshua B. Lane in support of said Motion, along with any pleadings filed in response thereto and in strict reply to such response, as well as the pleadings and records

ORDER GRANTING HARBORSTONE'S
MOTION FOR SUMMARY JUDGMENT - 1

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1 previously filed herein, the Court finds that the McAlpines defaulted on their obligations to
2 Harborstone under the Note and Deed of Trust and that Plaintiff is entitled to the entry of a final
3 judgment against said Defendants under CR 54(b) as there is no just reason for delay. The Court
4 being otherwise fully apprised, the Court hereby Orders and Decrees as follows:

5 **ORDERED, ADJUDGED, and DECREED** that Harborstone's Motion for Summary
6 Judgment is granted, to the extent set out below. It is further

7 **ORDERED, ADJUDGED, and DECREED** that judgment shall immediately be entered
8 against Defendant Deborah McAlpine, individually and as the Administrator of the Estate of
9 Kenneth McAlpine, deceased, in the principal amount of \$167,982.73, plus 12.75% per diem
10 interest (or \$59.49 per day) from July 14, 2011, plus \$12,500.75 in attorney fees and costs. Post-
11 judgment interest shall accrue at a fixed rate on the total judgment amount at the parties' contract
12 rate of 12.75% per annum. It is further

13 **ORDERED, ADJUDGED, and DECREED** that Harborstone is entitled to seek and
14 enforce other remedies against the Deed of Trust recorded on May 5, 2006 under Pierce County
15 Auditor's File No. 200605050802, or any other collateral securing the outstanding indebtedness
16 evidence by the Note and reduced to judgment, including, but not limited to, the judicial or non-
17 judicial foreclosure of any deed of trust, including the right to pursue any insurance proceeds for
18 damage to the fire damaged building or its fixtures, in this action or by separate action, security
19 agreement, pledge, assignment, or the right of offset concerning property described therein, any
20 and all agreements in the loan documents, and as otherwise afforded Harborstone at law and in
21 equity. It is further

22 **ORDERED, ADJUDGED, and DECREED** that the rights of Harborstone to receive
23 proceeds of the STATE FARM FIRE AND CASUALTY COMPANY policy for fire damage to
24

1 the building and its fixtures, which is the subject of this action, are prior and superior to the
2 rights of McAlpine. It is further

3 **ORDERED, ADJUDGED, and DECREED** that the allocation of any additional
4 proceeds of insurance or award of damages between loss for fire damage to the building and
5 fixtures and any other loss shall be reserved for future determination. It is further
6

7 **ORDERED, ADJUDGED, and DECREED** that this order is a final judgment regarding
8 Harborstone's claims herein against McAlpine, and Harborstone may immediately execute upon
9 this judgment pursuant to Fed. R. Civ. P. 54(b).

10 DATED this 29th day of September 2011.

11 
12
13

BENJAMIN H. SETTLE
United States District Judge

14 Presented by:

15 EISENHOWER & CARLSON, PLLC
16

17 By: /s/ Donald L. Anderson
18 Donald L. Anderson, WSBA # 8373
19 Joshua B. Lane, WSBA # 42192
Attorneys for Intervening Plaintiff
Harborstone Credit Union

20 Approved as to form:

21 WILLIAMS LAW OFFICE
22

23 By: /s/ Gary Williams
24 Gary Williams, WSBA # 9580
25 Attorneys for Plaintiff & cross-claim Defendant
26 Deborah McAlpine, individually and as
Administrator of the Estate of Kenneth McAlpine

ORDER GRANTING HARBORSTONE'S
MOTION FOR SUMMARY JUDGMENT - 3

1 Approved as to form:

2 BETTS, PATTERSON & MINES, P.S.

3
4 By: /s/ Daniel L. Syhre

5 Joseph D. Hampton, WSBA # 15297

6 Daniel L. Syhre, WSBA # 34158

7 Morgan E. Smith, WSBA # 37954

8 Attorneys for Defendant

9 State Farm Fire and Casualty Company